

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
VIRGINIA, ROANOKE DIVISION

Kenneth J. Harris v. Chadwick Dotson, Director

Harris v. Dotson · No. 7:23-cv-00628 · Decided March 20, 2026

SUMMARY

The United States District Court for the Western District of Virginia considers Kenneth J. Harris’s 28 U.S.C. § 2254 petition challenging Virginia convictions for drug and firearm offenses. The court concludes that Harris’s Fourth Amendment search-and-seizure claim is not cognizable under *Stone v. Powell* because he had a full and fair opportunity to litigate it in state court, and that his ineffective-assistance claim was procedurally defaulted and lacked merit. The court grants the respondent’s motion to dismiss.

CASE DETAILS

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| COURT                 | United States District Court for the Western District of Virginia, Roanoke Division                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Robert S. Ballou                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | United States District Court for the Western District of Virginia, Roanoke Division                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | March 20, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 7:23-cv-00628                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Petition for a writ of habeas corpus under 28 U.S.C. § 2254; respondent moved to dismiss.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| STANDARD OF REVIEW    | Under 28 U.S.C. § 2254(d), federal habeas relief is available for a claim adjudicated on the merits only when the state-court decision was contrary to, or involved an unreasonable application of, clearly established Supreme Court precedent, or was based on an unreasonable determination of the facts. State factual findings are presumed correct under § 2254(e)(1), subject to rebuttal by clear and convincing evidence. Procedurally defaulted claims require a showing of cause and actual prejudice. Fourth Amendment search-and-seizure claims are not cognizable in federal habeas when the state provided a full and fair opportunity to litigate them. |
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|--------------------|------------------------------------------------|
| PRECEDENTIAL VALUE | unpublished                                    |
| PARTIES            | Kenneth J. Harris v. Chadwick Dotson, Director |

## TOPICS

federal habeas corpus post-conviction relief ineffective assistance fourth amendment

## PRACTICE AREAS

Federal habeas corpus Post-conviction relief Criminal procedure Ineffective assistance of counsel

Fourth Amendment

## QUESTIONS PRESENTED

1. Whether Harris's Fourth Amendment challenge to the search warrant and seizure of evidence was cognizable in federal habeas after he received a full and fair opportunity to litigate the claim in state court.
2. Whether Harris's ineffective-assistance-of-counsel claim was procedurally defaulted because he failed to timely file a petition for appeal from the denial of state habeas relief.
3. Whether Harris established cause and prejudice to excuse the procedural default of his ineffective-assistance claim.
4. Whether the state habeas court's rejection of the ineffective-assistance claim was contrary to, or an unreasonable application of, clearly established federal law or based on an unreasonable determination of the facts.

## HOLDINGS

1. A Fourth Amendment challenge to a search and seizure is not cognizable on federal habeas review when the state provided a full and fair opportunity to litigate the claim.
2. Harris's ineffective-assistance claim was procedurally defaulted because he failed to file a timely petition for appeal in the Supreme Court of Virginia as required by Virginia Rule 5:17.
3. Harris failed to establish cause or prejudice sufficient to excuse his procedural default.
4. Even absent procedural default, Harris was not entitled to habeas relief because the state habeas court reasonably concluded that counsel was not deficient and that the record did not establish prejudice.

## KEY QUOTATIONS

*“claims that evidence was obtained in an unlawful search and seizure are not cognizable in federal habeas cases, as long as the state provided the petitioner a full and fair opportunity to litigate his Fourth Amendment claim in the state courts.”* (Discussion, § II.D.1)

*“Harris’s Fourth Amendment claim is not cognizable on federal habeas review. His claim of ineffective assistance of counsel was procedurally defaulted, and he has shown neither cause nor prejudice to excuse*

*that default.*” (Conclusion)

## FACTUAL BACKGROUND

In November 2017, officers executed a search warrant at Harris's home after a confidential informant made a controlled purchase of suspected crack cocaine. The search uncovered cocaine, marijuana, prescription drugs, firearms, ammunition, drug-packaging materials, scales, cash from a controlled buy, and other evidence of drug distribution. Harris denied making the statements attributed to him and challenged the warrant based on alleged falsehoods and the absence of functioning audio or video recordings of the controlled buy. The state trial court rejected his suppression and Franks claims, found him guilty, and the state courts denied relief.

## PROCEDURAL HISTORY

Harris was convicted in the Halifax County Circuit Court of drug and firearm offenses after a bench trial and received an active sentence of twenty years. The Virginia Court of Appeals denied his direct-appeal petition, and the Supreme Court of Virginia refused review. The Halifax Circuit Court dismissed Harris's state habeas petition, and Harris failed to file a timely petition for appeal in the Supreme Court of Virginia, resulting in procedural default of his ineffective-assistance claim. His federal habeas matter was initially received by the Eastern District of Virginia, reclassified as a habeas petition, and transferred to the Western District of Virginia. The district court granted the respondent's motion to dismiss and declined to issue a certificate of appealability.

## DISPOSITION

dismissed

## CASES CITED

- Franks v. Delaware, 438 U.S. 154 (1978)
- United States v. Sanders, 107 F.4th 234, 245 n.9 (4th Cir. 2024)
- Coleman v. Thompson, 501 U.S. 722, 730–32, 750, 753, 756–57 (1991)
- O’Sullivan v. Boerckel, 526 U.S. 838, 842 (1999)
- Duncan v. Henry, 513 U.S. 364, 365–66 (1995)
- Breard v. Pruett, 134 F.3d 615, 619 (4th Cir. 1998)
- Yeatts v. Angelone, 166 F.3d 255, 263–64 (4th Cir. 1999)
- Bassette v. Thompson, 915 F.2d 932, 936–37 (4th Cir. 1990)
- United States v. Frady, 456 U.S. 152, 170 (1982)
- McHoney v. South Carolina, 518 F. Supp. 2d 700, 703–04 (D.S.C. 2007)
- Escalante v. Watson, 488 F. App’x 694, 698 (4th Cir. 2012)
- Baker v. Corcoran, 220 F.3d 276, 288 (4th Cir. 2000)
- O’Dell v. Netherland, 95 F.3d 1214, 1244 (4th Cir. 1996)
- United States v. Sosa, 364 F.3d 507, 512 (4th Cir. 2004)
- Stone v. Powell, 428 U.S. 465, 494 (1976)

- Strickland v. Washington, 466 U.S. 668, 687–88 (1984)
- Williams v. Taylor, 529 U.S. 362, 405 (2000)
- Harrington v. Richter, 562 U.S. 86, 103 (2011)
- Schiro v. Landrigan, 550 U.S. 465, 473 (2007)

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